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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,680	07/15/2003	Todd R. Stager	3053M-Div-1	7073

7590 11/30/2004  
S. Michael Bender  
P.O. Box 530-399  
St. Petersburg, FL 33747

EXAMINER

WIEKER, AMANDA FLYNN

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/619,680	<b>Applicant(s)</b> STAGER, TODD R.	
	<b>Examiner</b> Amanda F. Wiekert	<b>Art Unit</b> 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-16 is/are pending in the application.
- 4a) Of the above claim(s) 7, 11, 12 and 14-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-6, 8-10, 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to the following patentably distinct species of the claimed invention:
  - Species A as shown in Figures 2-6,
  - Species B as shown in Figures 7-9,
  - Species C as shown in Figures 10-11,
  - Species D as shown in Figures 12-13, and
  - Species E as shown in Figures 14-15.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 10 appears generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if

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the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Michael Bender on 23 November 2004 a provisional election was made without traverse to prosecute the invention of Species E, which is deemed to read on claims 5-6, 8-10 and 13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7, 11-12 and 14-16 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

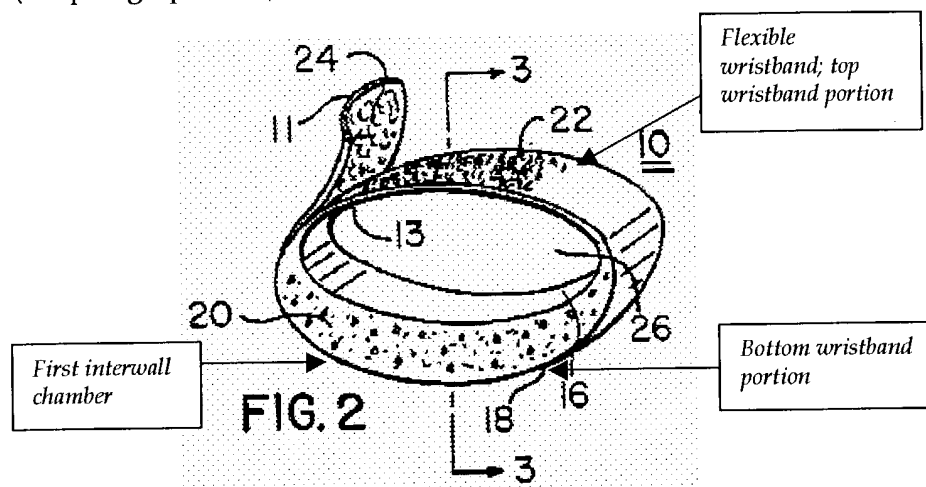
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 5, 8-10 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Number 2003/0014002 to Quintana.

Quintana discloses a wristpad apparatus, comprising: an inner wall (16), an outer wall (18), wherein a portion of said inner wall and said outer wall provide a flexible wristband (see below), and wherein a portion of said inner wall and said outer wall define a first interwall chamber (see below), and a quantity of flexible filler material (20) is contained in said first interwall chamber providing a flexible pillow. The wristband includes: a first wristband strap portion (11) which includes a first strap connector (24), and a second wristband strap portion

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(13) which includes a complimentary second strap connector (22). The first strap connector (24) is made from a quantity of first hook-or-loop material (VELCRO®), and said second strap connector (22) is made from a quantity of complimentary second hook-or-loop material (VELCRO®). Regarding claim 10, the wrist pad apparatus comprises: a flexible wristband which includes a top wristband portion and a bottom wristband portion (see below), a flexible pillow (22) connected to said bottom wristband portion, wherein said flexible pillow includes a flexible pillow housing (inner and outer walls 16 and 18) and provides wrist elevation adjustment means (see paragraph 0027).



### Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quintana in view of U.S. Patent Number 6,517,507 to Faherty.

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Quintana discloses the previously described wristpad apparatus comprising an inner wall (16) and an outer wall (18), wherein a portion of the inner and outer walls define an interwall chamber which contains a quantity of flexible material. Quintana does not specify that the inner and outer walls are comprised of a knitted fabric.

Faherty discloses a wristpad apparatus comprising an inner and outer wall made of a flexible, elastic (including SPANDEX®), knitted fabric to allow a proper and accurate fit of the wristpad on the wrist.

It would have been obvious to one skilled in the art at the time the invention was made to have provided the wristpad apparatus disclosed by Quintana, wherein the inner and outer walls comprise a flexible, elastic, knitted fabric, as taught by Faherty, to allow a proper and accurate fit of the wristpad on the wrist.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda F. Wieker whose telephone number is 571-272-4794. The examiner can normally be reached on Monday-Thursday, 8:30 - 6:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Amanda F. Wieker  
Examiner  
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